

Zerby

**Amending Title 9 of the Minneapolis Code of Ordinances relating to Fire and Police Protection by adding a new Chapter 177 relating to Fireworks.**

The City Council of The City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances be amended by adding thereto a new Chapter 177 to read as follows:

**CHAPTER 177. FIREWORKS**

**177.10. Definitions.** For the purposes of this chapter, the terms defined in this section shall have the following meanings:

*Adult.* A person 18 years of age or older.

*Business.* Refers to the business of selling, storing or displaying any form of permitted consumer fireworks.

*Movable place of business.* A business whose physical location is not permanent or is capable of readily being moved or changed, including without limitation commercial transactions conducted in whole or in part from motorized or non-motorized vehicles, non-permanent stands, mobile sales kiosks, trailers, tents, bicycles or carts.

*Permitted consumer fireworks.* Permitted consumer fireworks are defined as wire or wood sparklers of not more than one hundred (100) grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain seventy-five (75) grams or less of chemical mixture per tube or a total of two hundred (200) grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five (25) hundredths grains of explosive mixture.

*Permitted premises.* The place of business described in the approved permit application and approved site plan for the sale, display and storage of permitted consumer fireworks.

*Person.* One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic or nonprofit corporation; a trust; or any other business organization.

*Transient merchant.* Any person who engages in or transacts any temporary and transient business in the city, either in one locality or in traveling from place to place in the city selling merchandise and who, for the purpose of carrying on such business, hires, leases, occupies or uses a building, stand, tent, trailer, cart, structure, vacant lot or motor vehicle for the exhibition and sale of such merchandise.

**177.20. Permit required.** No person shall store for retail sale or wholesale distribution, sell at retail or wholesale, or otherwise supply or furnish as part of a commercial transaction any permitted

consumer fireworks without first having obtained a permit hereunder, completed a permitted consumer fireworks education course provided by the fire department, paid the required permit fee and conspicuously posted the permit on the permitted premises.

Issuance of a permit pursuant to this ordinance shall not relieve the person from obtaining any other licenses or permits required by the Minneapolis Code of Ordinances, state law or federal law, to conduct this or other businesses at the same or any other location, and complying with the city zoning code.

Each permit pursuant to this ordinance shall designate the person to whom the permit was granted and the distinct location of the place of business for which the permit was granted.

**177.30. Permit fee and term of permit.** The annual permit fee shall be \$\_\_\_\_\_ and may be reset by the city council on an annual basis. The permit fee shall cover the administrative and enforcement costs, including inspections by the fire department and the police department, sampling and testing of the merchandise to ascertain chemical content, education and public service announcements, and other costs associated with the administration or enforcement of this ordinance. Full payment of the required permit fee shall accompany the application, and shall be returned to the applicant if the permit application is not approved.

A separate permit, and accompanying permit fee, shall be required for each separate, non-contiguous permitted storage or retail premises, even if owned and operated by the same permit holder or applicant. Each annual permit shall be effective for one (1) year from the date of approval. An application for the renewal of an existing permit shall be made prior to the expiration date of the current permit, or the applicant must reapply as an initial applicant, including participation in any required safety courses.

**177.40. No mobile sales or sales by transient merchants.** No permit shall be issued for the sale of permitted consumer fireworks at a movable place of business, including without limitation, mobile sales made from motorized vehicles, mobile sales kiosks, non-permanent stands or trailers. No permit shall be issued hereunder to transient merchants and no seasonal or temporary permits shall be granted.

**177.50. Permit application.** An application for a permit for the sale, use, storage or possession of permitted consumer fireworks shall be made on a form supplied by the fire department and shall contain the following information:

- (1) Whether the applicant is a natural person, corporation, partnership or any other business association or organization.
- (2) The applicant's full legal name, mailing address and telephone number.
- (3) The street address or legal description of the premises to be permitted.
- (4) Whether all real estate and personal property taxes that are due and payable for the premises to be permitted have been paid, and if not paid, the years and amounts that are unpaid.
- (5) Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be permitted.

- (6) If the applicant does not own the business premises, a true and correct copy of the current, executed lease, as well as, the written authorization of the property owner for the applicant's use of the property for the sale of permitted consumer fireworks.
- (7) The applicant's hours of operation, on-site management and parking facilities.
- (8) A detailed site plan, to scale, illustrating and describing the proposed sales and storage areas covered by the permit.
- (9) The full name, mailing address, and telephone number of the person in charge of the permitted premises.
- (10) Any of the applicant's previous violations of any city ordinances.
- (11) Such other information as the fire department may require.

**177.60. Insurance required.** All permit holders, for each and every permit, must have at all times a valid certificate of insurance issued by an insurance company licensed to do business in the State of Minnesota evidencing that the applicant's use of the property is currently covered by a liability insurance policy. The minimum limits of coverage for such insurance shall be:

- (1) Each claim, at least two hundred thousand dollars (\$200,000.00).
- (2) Each incident, at least five hundred thousand dollars (\$500,000.00).

Such insurance shall be kept in force during the term of the permit and the permit holder must provide for prior notification to the fire department should the policy be terminated or canceled. A certificate of insurance must accompany all initial and renewal permit applications.

**177.70. Permit application verification and consideration.** (a) *Verification.* Applications for a permit for the sale of permitted consumer fireworks shall be submitted to the fire department and the fire department shall verify the information on the application form. The fire department is empowered to conduct any and all investigations to verify the information on the application.

(b) *Consideration.* The fire department shall review the site plan and determine if the manner of storage, display or sales area of the permitted premises constitutes a fire or safety hazard. In assessing the potential hazard, reference shall be made to all applicable state and federal laws, rules and regulations, as well as the administrative standards for the storage, display and sales of permitted consumer fireworks established by the fire department. If an application is granted for a location where a building is under construction or not ready for occupancy, the permit shall not be delivered to the applicant until a certificate of occupancy has been issued for the permitted premises. All permits will be issued and valid thirty (30) days after the approval of the application.

(c) *Denial of application.* If the application is denied, the fire department shall notify the applicant of that determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application and it shall inform the applicant of the applicant's right, within twenty (20) days after the date of the notice to request an appeal of the denial to the Fire Code Appeals Board. If an appeal is timely received the hearing before the Fire Code Appeals Board shall take place within a reasonable period thereafter.

**177.80. Persons and locations ineligible for a license.** (a) *Persons Ineligible.* No permit for the sale of permitted consumer fireworks shall be issued to an applicant who, if such applicant or any

manager, proprietor, or agent in charge of the business to be permitted:

- (1) Is not eighteen (18) years of age or older on the date the permit application is submitted to the fire department;
- (2) Has knowingly falsified or misrepresented information on the permit application;
- (3) Is not the real party in interest in the business being permitted;
- (4) Owes taxes or assessments to the state, county, school district, or city that are due and delinquent; or
- (5) Has violated any city ordinances.

(b) *Locations Ineligible.* The following locations shall be ineligible for a permit:

- (1) *Claims due.* No permit shall be granted or renewed for operation on any property on which taxes, assessments, or other financial claims of the state, county, school district, or city are due, delinquent, or unpaid.
- (2) *Improper zoning.* No permit shall be granted if the property is not properly zoned for the activity being licensed unless the business is a legal, nonconforming use, as determined by the fire department.

**177.90. Permit restrictions.** (a) *Permit displayed.* A permit issued under this ordinance must be posted in a conspicuous place in the premises for which it is used. The permit issued is only effective for the compact and contiguous space specified in the approved permit application.

(b) *Permitted premises.* A separate permit is required for each place of business.

(c) *Change in ownership.* Any change, directly or beneficially, in the ownership of the permitted business shall require the application for a new permit and the new owner must satisfy all current eligibility requirements.

(d) *Non-transferable.* Each permit shall be issued to the applicant only and shall not be transferable to any other person. No permit holder shall loan, sell, give or assign a permit to another person, and any such permit is invalid and automatically revoked.

(e) *Location restrictions.* A permit issued under this ordinance authorizes the permit holder to carry on its business only at the permanent place of business designated on the permit.

**177.100. Restrictions regarding operation.** (a) *Prohibited transactions.* No permit holder or agent or employee thereof shall sell, distribute or furnish any permitted consumer fireworks to a person under the age of eighteen (18) years (as verified by a current, valid driver's license, or a current, valid photo identification card), any person who is obviously intoxicated, chemically impaired or incompetent.

(b) *Inspection of items.* The permit holder must, at all times during the term of the permit, allow the authorized agents of the fire department and the police department to enter the premises where the permitted business is located, including all display, sale or storage areas during normal business hours, or beyond normal business hours where the inspector determines an emergency situation exists, for the purpose of inspecting such premises and inspecting the items, ware, and merchandise

therein for the purpose of verifying compliance with the requirements of this ordinance, and any other applicable state and federal regulations. Upon request, the permit holder must provide a test sample to the inspector for the purpose of verifying the chemical content of the merchandise.

(c) *Maintenance of order.* Permit holders shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

(d) *Smoking prohibited.* Permit holders must strictly prohibit any cigarette, cigar, or pipe smoking in or around the permitted premises and conspicuously post and maintain appropriate “NO SMOKING” signage throughout.

(e) *Proper disposal of unsold permitted consumer fireworks.* It shall be the responsibility of the permit holder to properly dispose of all unsold permitted consumer fireworks. Any consequential cost to the city for disposal of these goods shall be the ultimate responsibility of the permit holder.

(e) *Maintenance of sales and storage areas.* Any significant deviation, enlargement or alteration from the approved site plan for the sales display and storage areas covered by the permit must be pre-approved in writing by the fire department.

(f) *Confiscation and destruction of illegal fireworks.* Any authorized agent of the fire department or police department may seize, take, remove or cause to be removed all stocks of fireworks or other combustibles offered or exposed for sale, stored or held in violation of this ordinance or other applicable law. Any consequential cost to the city for disposal of these goods shall be the ultimate responsibility of the permit holder.

**177.110. Sanctions for license violations.** (a) *Permit suspension or revocation.* The fire department may suspend or revoke a permit issued pursuant to this ordinance for:

- (1) Fraud, misrepresentation, or false statement contained in a permit application, including a renewal application;
- (2) Fraud, misrepresentation, or false statement made in the course of carrying on the permitted business;
- (3) Any violation of the Minneapolis Code of Ordinances or state law;
- (4) Any significant unauthorized deviation, enlargement or alteration of the approved site plan for the storage and sales display areas of the permitted premises shall, in and of itself, constitute a basis for license revocation.

(b) *Notice of hearing.* A revocation or suspension by the fire department shall be preceded by written notice to the permit holder and a hearing before the Fire Code Appeals Board. The notice shall give at least eight (8) days’ notice of the time and place of the hearing and shall state the nature of the charges against the permit holder. The notice shall be mailed by regular and certified mail to the permit holder at the most recent address listed on the application.

**177.120. Consumer use restrictions.**

- (1) It is unlawful to use, fire or discharge any permitted consumer fireworks along the route of and during any parade, or at any place of public assembly, including any event in the city for which a block event permit has been issued.

- (2) It is unlawful to throw, toss, shoot or otherwise launch any permitted consumer fireworks at any person, animal, vehicle or other thing or object.
- (3) It is unlawful to discharge any permitted consumer fireworks within three hundred (300) feet of any building or location at which permitted consumer fireworks are sold at retail or otherwise stored for any reason.
- (4) It is unlawful for any person under the age of eighteen (18) to possess, use or discharge any permitted consumer fireworks unless a responsible adult directly supervises the juvenile.
- (5) It is unlawful for any person to use or discharge permitted consumer fireworks between the hours of 12:15 a.m. and 9:00 a.m. in the city limits.
- (6) Permitted consumer fireworks may only be discharged in an area with a water source connected to a hose or other acceptable means of extinguishing a fire.

**177.130. Penalty.** A violation of this ordinance shall be a misdemeanor under Minnesota law.

**177.140. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.